

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LANCE IAN OSBAND,

Petitioner,

vs.

No. CIV S-97-0152 WBS KJM

DEATH PENALTY CASE

JILL BROWN,
Acting Warden of San Quentin
State Prison,

Respondent.

ORDER

As noted in the court's March 18, 2005 order, both parties filed briefs containing information covered by the August 10, 2000 protective order. The parties request that those briefs be ordered filed under seal.¹ However, because the briefs contain only a small amount of protected information, a blanket sealing order would be overbroad. Instead, the briefs will be stricken from the record and replaced with a publicly filed brief and a sealed addendum. The brief and addendum shall contain the same information and argument as the original briefing.

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¹ The court requested a statement joined by both parties regarding procedures for compliance with the protective order. Mar. 18, 2005 Order. A "Joint Statement" was filed on March 30. However, it was signed only by respondent. Respondent states that petitioner will join in the statement by separate filing. Petitioner has not done so. The undersigned accepts respondent's assurance that the March 30 filing represents the view of both parties.

Accordingly, and good cause appearing, IT IS HEREBY ORDERED as follows:

1. Because they may contain information protected by the August 10, 2000 protective order, the following filings shall be stricken from the record:

a. Petitioner's October 1, 2003 Memorandum of Points and Authorities in Support of Motion for Evidentiary Hearing;

b. Respondent's July 20, 2004 Response to Motion for Evidentiary Hearing; and

c. Petitioner's October 19, 2004 Reply to Response to Motion for Evidentiary Hearing.

2. Within fifteen days of the filed date of this order, each party shall re-file the memoranda relating to petitioner's motion for an evidentiary hearing. The replacement briefs, and any future briefing that contains information covered by the protective order, shall be filed in two parts. The primary briefs shall be filed in the public file. They shall indicate by footnotes that additional information is being submitted under seal as directed by this order and the protective order. Addenda to the briefs, containing all protected information and argument, shall be filed under seal and served on the opposing party.

DATED: April 26, 2005.


UNITED STATES MAGISTRATE JUDGE

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